

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D24727
Y/cb

_____AD3d_____

Argued - October 2, 2009

REINALDO E. RIVERA, J.P.
RANDALL T. ENG
CHERYL E. CHAMBERS
L. PRISCILLA HALL, JJ.

2007-00843

DECISION & ORDER

The People, etc., respondent,
v Rohan Hamilton, appellant.

(Ind. No. 327/05)

Lynn W. L. Fahey, New York, N.Y. (Alexis A. Ascher of counsel), for appellant, and appellant pro se.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Anthea Bruffee, and A. Brendan Stewart of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Leventhal, J.), rendered January 11, 2007, convicting him of murder in the second degree and criminal possession of a weapon in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that his Sixth Amendment right to confront his accusers was violated because his fingerprint and palm print cards were admitted into evidence through the testimony of a print examiner, rather than through the testimony of the detective who took the prints. However, since the defendant did not object to the admission of the print cards on this ground, his claim that his right of confrontation was violated is unreserved for appellate review (*see People v Liner*, 9 NY3d 856; *People v Gray*, 86 NY2d 10, 19-21; *People v Ward*, 57 AD3d 582, 583; *People v Howell*, 44 AD3d 686). In any event, the print cards themselves were not directly accusatory (*see People v Rawlins*, 10 NY3d 136, 160, *cert denied* _____US_____, 127 S Ct 2856), and were properly admitted into evidence through the testimony of the print examiner, who compared a latent

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palm print found at the crime scene with the defendant's palm print and concluded that they matched. This expert, who, in effect, accused the defendant of a crime by testifying that his palm print matched the latent palm print found at the crime scene, was available for cross examination. Thus, the defendant's right of confrontation was not violated (*cf. People v Rawlins*, 10 NY3d 136, 157).

Contrary to the defendant's contention, the court also properly admitted autopsy photographs into evidence. The photographs were not excessively gruesome, and were not introduced for the sole purpose of arousing the jurors' passions and prejudicing the defendant (*see People v Wood*, 79 NY2d 958, 960; *People v Cartwright*, 61 AD3d 695, 696; *People v Prowse*, 60 AD3d 703, 704, *lv denied* 12 NY3d 858; *People v Reyes*, 49 AD3d 565, 566-567). Rather, the photographs were relevant both to help illustrate and corroborate the testimony of the medial examiner, and to establish intent (*see People v Stevens*, 76 NY2d 833, 836; *People v Prowse*, 60 AD3d at 704; *People v Reyes*, 49 AD3d at 566-567; *People v Allan*, 41 AD3d 727, 728). The fact that there was other evidence available with regard to these matters did not require the exclusion of the photographs (*see People v Stevens*, 76 NY2d at 836; *People v Reyes*, 49 AD3d at 566-567; *People v Allan*, 41 AD3d at 728).

The defendant's remaining contentions raised in his supplemental pro se brief are unpreserved for appellate review and, in any event, are without merit.

RIVERA, J.P., ENG, CHAMBERS and HALL, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court